

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

BIG SKY SHEET METAL COMPANY, INC.

and

Case 19--CA--13068 <sup>1</sup>

LOCAL UNION NO. 242, AFFILIATED WITH  
THE SHEET METAL WORKERS INTERNATIONAL  
ASSOCIATION, AFL-~~CIO~~<sup>1</sup>

SUPPLEMENTAL DECISION AND ORDER

On 17 January 1983 the National Labor Relations Board entered its Decision, Order, and Direction <sup>2</sup> in the above-entitled proceeding directing Big Sky Sheet Metal Company, Inc., among other actions, to make whole employees Larry Mineer, Dan Martinez, Tony Gillen, and Eric Wilson for any loss of pay they may have suffered by reason of its discrimination against them. The United States Court of Appeals for the Ninth Circuit enforced the Board's Order 12 December 1983.<sup>3</sup> A controversy having arisen over the amount of backpay due under the Board's Order, the Regional Director for Region 19 on 22 March 1984 issued a backpay specification and notice of hearing alleging the amounts of backpay due and notifying the Respondent that it should file a timely answer. The Respondent failed to file an answer.

On 23 April 1984 the General Counsel filed a Motion for Summary Judgment. On 24 April 1984 the Board issued an order transferring the proceeding to the

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<sup>1</sup> We have deleted an R case number that was inadvertently included in the backpay specification and notice of hearing.  
<sup>2</sup> 266 NLRB No. 5 (Jan. 17, 1983).  
<sup>3</sup> No. 83--7482 (Dec. 12, 1983).

Board and a Notice to Show Cause why the General Counsel's motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

#### Ruling on the Motion for Summary Judgment

Section 102.54 of the Board's Rules and Regulations provides that if an answer is not filed within 15 days from the service of the specification the Board may find the specification to be true.

The backpay specification states that the Respondent shall file an answer within 15 days from the date of the specification, and that if the answer fails to deny the specification's allegations in the manner required under the Board's Rules and Regulations, and the failure to do so is not adequately explained, the allegations shall be deemed to be true. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the General Counsel, by letter dated 10 April 1984, notified the Respondent that if an answer was not filed by 17 April 1984, a Motion for Summary Judgment would be filed.

Absent any explanation for the Respondent's failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.<sup>4</sup>

Accordingly, the Board concludes that the net backpay due the discriminatees, Larry Mineer, Dan Martinez, Tony Gillen, and Eric Wilson, is as stated in the computations of the backpay specification, and orders the Respondent to pay those amounts to the discriminatees.

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<sup>4</sup> In granting the General Counsel's Motion for Summary Judgment, Chairman Dotson specifically relies on the total failure of the Respondent to respond to the allegations of the General Counsel's backpay specification. Thus, the Chairman regards this proceeding as being essentially a default judgment which is without precedential value.

## ORDER

The National Labor Relations Board orders that the Respondent, Big Sky Sheet Metal Company, Inc., Kennewick, Washington, its officers, agents, successors, and assigns, to make whole each employee named below by paying them the amounts set forth adjacent to their names, plus interest computed in the manner prescribed in Florida Steel Corp., 231 NLRB 651 (1977),<sup>5</sup> and accrued to the date of payment, minus tax withholdings required by law:

Dan Martinez	\$20,273.58
Larry Mineer	13,411.67
Eric Wilson	851.59

Dated, Washington, D.C. 18 July 1984

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Donald L. Dotson, Chairman

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Don A. Zimmerman, Member

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Patricia Diaz Dennis, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

<sup>5</sup> See generally Isis Plumbing Co., 138 NLRB 716 (1962).